

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
NORTHERN DIVISION  
No. 2:23-cv-0001-D-RN**

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT D. WHITE,

Defendant.

**STATUS REPORT AND MOTION TO  
EXTEND STAY**

In response to the Court’s Order of August 25, 2025, [D.E. 105], Plaintiff United States of America (the “United States”) respectfully submits this Status Report and Motion to Extend Stay. Undersigned counsel for the United States conferred with counsel for Defendant via email and videoconference regarding the relief requested in this motion. Counsel for Defendant advised that Defendant reserves his position until he reviews this motion.

This Clean Water Act civil enforcement case involves three waterfront properties owned by Defendant in Elizabeth City, North Carolina. The United States alleges that, with respect to each of these properties, Defendant, without authorization, constructed bulkheads in the Pasquotank River and Big Flatty Creek and filled the wetlands and waters behind the bulkheads on his properties abutting those traditional navigable waters. [D.E. 1]. The United States seeks declaratory and injunctive relief, as well as an appropriate civil penalty. *Id.* Cross-motions for summary judgment have been fully briefed. [D.E. 76-82, 88-93].

On January 24, 2025, the Court scheduled a motions hearing for February 5, 2025. On January 28, 2025, the United States moved to hold the case in abeyance for 60 days or, in the alternative, continue by two weeks the motions hearing. D.E. 95. On January 29, 2025, the

Court granted the motion, stayed the case for 75 days and directed the United States to provide a status report at the conclusion of the stay. [D.E. 96]. At the conclusion of that the United States moved to continue the stay by an additional 120-days, [D.E. 99], which this Court granted on April 15, 2025, [D.E. 101]. In August 2025, the United States moved to continue the stay by another 120-days, [D.E. 103], which this Court also granted on August 25, 2025, [D.E. 105]. The United States filed similar motions in *White v. EPA*, No. 2:24-cv-00013-BO-RJ (E.D.N.C.) (challenge to 2023 adjacent-wetlands provision of Clean Water Act definitional regulations), and *White v. EPA*, No. 24-1635 (4th Cir.) (appeal from denial of the plaintiff's motion for a preliminary injunction), which were granted.

As previously reported, the Agencies solicited stakeholder input to assist the Agencies in further clarifying the definition of “waters of the United States,” 90 Fed. Reg. 13428 (Mar. 24, 2025), and received more than 45,000 recommendations. *See* D.E. 80. On November 17, 2025, the Agencies signed a proposed rule titled “Updated Definition of ‘Waters of the United States.’” The proposed rule published in the Federal Register on November 20, 2025. 90 Fed. Reg. 52498. The 45-day public comment period will close on January 5, 2026. *Id.*

Based on these developments, and consistent with the United States' position in *White v. EPA*, the United States respectfully requests that the Court continue to stay the case for an additional 180 days while the rulemaking process moves forward. The Court should further provide that either or both parties may move to lift the stay prior to its conclusion if they believe such is justified based on changed circumstances. The Court also should direct the United States to file a further Status Report at the conclusion of the stay to provide an update on the rulemaking process and propose further proceedings as appropriate.

Dated: December 23, 2025

ADAM R.F. GUSTAFSON  
Principal Deputy Assistant Attorney General  
Environment and Natural Resources Division

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 23, 2025, I served a copy of the foregoing Status Report and Unopposed Motion to Extend Stay upon the Defendant electronically using the CM/ECF system.

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